

IMMIGRANT ACCESS TO DRIVER'S LICENCES:

A Tool Kit for Advocates



Immigrant Access to State Driver's Licenses: A Tool Kit for Advocates

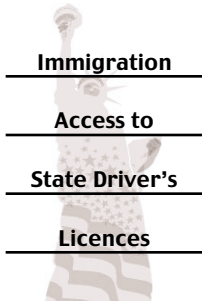
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I. INTRODUCTION

Immigrant access to driver's licenses has become an important issue in many states throughout the U.S. Advocates in some states have been working to expand immigrants' access to driver's licenses against determined opposition. Meanwhile, anti-immigrant groups and legislators in some of the same states and elsewhere are aggressively pursuing legislation and regulations that would further restrict immigrants' access to driver's licenses.

These are emotional battles that can be won despite efforts by the opposition to use fear and prejudice to stifle debate. The key to winning is to address the public's fears with logic and information, to deliver the information in an effective manner, and to work with likely allies such as law enforcement to make the strongest possible case to your state's lawmakers and regulators.

This Driver's License Tool Kit provides you with the resources and tips you need to advocate effectively on behalf of smart driver's license policies. It is designed to help you become part of this effort regardless of your level of resources or time constraints. How-to guides are provided on media and grassroots advocacy, including messaging and step-by-step instructions on how best to use your resources to impact public and policy-makers' opinions positively. You also will find helpful information about how to build a grassroots coalition with the institutions and activists in your community to produce a united effort that demands attention. Finally, model materials (including sample op-eds, editorials, and legislation) are attached to aid your work.



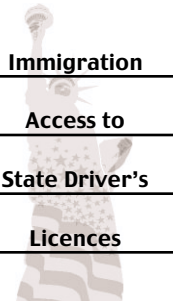
II. MESSAGES, MESSENGERS, AND TALKING POINTS

Talking points help communicate complicated issues in ways that politicians, the media, and the general public can understand.



This tool kit contains talking points on driver's licenses. These talking points were compiled from several different organizations and address general driver's license issues, as well as specific concerns that may or may not be important in your state.

Feel free to adapt these talking points to fit your own state's campaign; using state-specific data is often critical to success.



Sample Fact Sheet

Immigrant Driver's License Basic Information

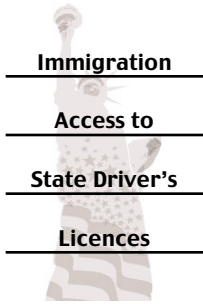
Drivers who have access to training, testing, licenses, and insurance are far less likely to cause traffic accidents than unlicensed drivers. Driver's license restrictions endanger -- rather than save -- lives.

Opponents argue that immigrant restrictions are worth the cost because issuing a driver's license makes an immigrant into a de facto citizen, and rewards illegal behavior. There is no question that our immigration system is in serious need of reform. The question is what to do about it.

Immigrant driver's license restrictions demonstrably do not deter illegal immigration, but they do cost lives. State Departments of Motor Vehicles (DMVs) are charged with guaranteeing the safety of our roads and highways, but they neither have the resources to enforce, nor are they effective in enforcing, federal immigration policy.

- **Licensing drivers prevents accidents and insurance losses.**
- Licensed drivers are tested, registered, and photographed and can get insurance.
- There are more than 40,000 traffic fatalities each year, and over 6.3 million motor-vehicle crashes, disproportionately caused by unlicensed drivers.
- An AAA Foundation for Traffic Safety report, *Unlicensed to Kill*, found that unlicensed drivers are almost five times more likely to be in a fatal crash than are validly licensed drivers.
- Unlicensed drivers can't get insurance and are less likely to stay on the scene after an accident. An average of 14 % of all accidents are caused by uninsured drivers.
- Nationally, uninsured motorists cause over \$4.1 billion in insurance losses per year.
- **Immigration enforcement via driver's license restrictions diverts state and local law enforcement from protecting public safety.**
- Our immigration system is broken, but it won't be fixed by preventing immigrants from getting driver's licenses.
- State and local law enforcement officers can't do everything. Time spent enforcing immigrant driver's license restrictions means less time to catch criminals and protect public safety.
- **Verifying immigration status makes the job of Motor Vehicle Departments much harder.**
- Our immigration system is disorderly, and not every legal immigrant has the same immigration document to prove status. Even costly training about complicated immigration laws won't change that.
- DMVs would have to spend their own state's money to figure out who is in the U.S. legally. That's money that would otherwise be available for real public safety priorities.





- **Immigrant driver's license restrictions don't deter terrorism – smarter security does.**
- Most of the 9/11 hijackers were in the United States lawfully and would have been able to get licenses even without immigrant driver's license restrictions.
- Some of the 9/11 terrorists got licenses by falsely claiming that they were state residents. Sensible measures requiring applicants to prove state residence are a more effective approach to ensuring the integrity of a license.
- The real security lapses in this country are unfunded state and local homeland security efforts, unfunded public health departments, lack of security at ports and other critical infrastructure facilities, chaos at the Department of Homeland Security, and international intelligence-gathering failures.
- **Fraud and identity theft are serious problems, but driver's license restrictions are not the solution.**
- Fraud within their own departments is a problem for many DMVs when their employees sell driver's licenses or knowingly issue them to unqualified drivers. Preventing immigrants from legally obtaining driver's licenses only makes this worse.
- Here are some real solutions to this problem:
 - ❖ States should implement internal antifraud mechanisms including improving training for DMVs on identifying false documents (such as false birth certificates), as well as ensuring that duplicate licenses are not issued.
 - ❖ States should reduce the production and sale of false documents by imposing harsh penalties on those who produce, distribute, or purchase them.
 - ❖ States that wish to require proof of state residency could accept evidence such as utility bills, rental agreements, payroll checks, and bank account statements.
- Treating immigrants (whether documented or undocumented) as though they are terrorists encourages discrimination and doesn't make us safer.
 - ❖ Stigmatizing immigrant drivers as criminals or terrorists will result in discrimination against foreign-looking or -sounding people, including U.S. citizens.
 - ❖ But discriminating against people who look or sound foreign won't make us safer. The best way to fight terrorism is to support measures that are effective and targeted at terrorism, not at immigrants.

Source: National Immigration Law Center

Sample Talking Points

Protecting the Public Safety and National Security of Everyone Driver's Licenses, National Security, and Terrorism

After the tragic events of September 11, 2001 there is renewed debate over immigrants' access to driver's licenses (DLs) and state identity documents. Since September 2001 some state officials have linked the denial of DLs for undocumented immigrants to efforts to combat terrorism, claiming that since several of the terrorists had U.S. state-issued DLs, they were able to board airplanes, rent cars, blend into society, and perform other activities more easily. Proponents of stricter regulations believe that denying DLs to foreigners will inhibit terrorists' ability to carry out terrorist activity.

While increasing our national security is critical, restricting DLs is an inefficient way to enforce immigration laws and prevent terrorism. In fact, denying DLs to large segments of the population makes everyone in the community less safe.

Restricting DLs is an inefficient and ineffective measure to prevent terrorism. Sophisticated terrorists with substantial financial resources are likely to have the ability to obtain DLs and other documents when they find them necessary. Furthermore, press accounts since September 11 have called attention to the fact that the hijackers had obtained DLs when, in fact, the terrorists did not need U.S.-issued DLs to board the planes on September 11; they had foreign passports that allowed them to board. Because of the large number of tourists and other visitors who travel in the U.S., foreign passports are likely to continue to be acceptable forms of identification for air travel.

Restricting DLs erodes community trust. Rather than increasing security, DL restrictions result in a situation in which immigrants fear discrimination and being reported to the INS and therefore avoid contact with law enforcement; immigrants are unwilling to report crimes and assist local law enforcement fight criminal and terrorist activity. This decreases community trust and infringes upon efforts to fight crime and save lives. In most states, law enforcement officials are opposed to restrictions on DLs, citing public safety, fraud prevention, battling corruption, and crime prevention.

Information-sharing with the Department of Homeland Security (DHS) and SSA does not increase public safety. Some states have proposed verifying immigration documents with the INS and the Social Security Administration. Linking DL databases to the DHS or the Social Security Administration to verify documents is likely to have harmful



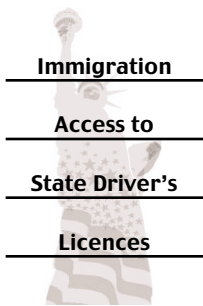
consequences. First, no database exists that contains information regarding the current immigration status of all immigrants. The DHS database is not updated quickly enough to contain current immigration status for all persons, and no database includes people who became naturalized citizens prior to 1973. As a result, many legal immigrants and U.S. citizens may be unfairly denied DLs. Second, the accuracy and reliability of the databases are problematic; DHS and SSA databases have been shown to have error rates approaching 20%. Finally, innocent mistakes, such as the misspelling of "unusual" names, transposing given names and surnames, inconsistent entry of multiple surnames, and the like, have a disproportionate impact on ethnic minorities. If verification against DHS data is used by DL agencies, it is inevitable that eligible persons will be denied DLs because of inaccuracies in the databases. Sharing information with the DHS and SSA does not lead to increased public safety. If immigrants do not apply for DLs because they fear discrimination or that they will be reported to the DHS or other law enforcement agencies, information-sharing results in greater numbers of unlicensed and uninsured drivers, and less contact between the community and the authorities. As a result, the entire community is less safe.

Restricting DLs results in unsafe roads, higher insurance rates, and overwhelmed court systems. Currently, there are an estimated eight million undocumented immigrants in the United States, many of whom have to drive on U.S. roads in order to work, whether or not they have a DL. As a result of immigrant restrictions these drivers will not take driving classes, will not pass driving tests, cannot get insurance, and are more likely to flee the scene of an accident. Nationally, uninsured motorists cause 14% of all accidents, and over \$4.1 billion in insurance losses per year. In addition, immigrant license restrictions result in numerous arrests for minor traffic violations, clogging the public courts and diverting the time of law enforcement officers who would be better used protecting public safety.

Restricting DLs results in the proliferation of false documents. The production and sale of falsified documents is likely to increase if large numbers of immigrants are denied DLs. Excluding individuals from legal DLs creates conditions in which false documents and false identities will proliferate, resulting in less accurate information about who is currently in the country.

Restricting DLs interferes with other law enforcement mechanisms. Law enforcement officials point out that the current child support enforcement and criminal warrant tracking functions of DLs are less useful if large proportions of the population are excluded from the DL databases.

Restricting DLs does not affect employment or public benefit usage. A driver's license only proves identity and ensures that the license holder



has shown a minimal level of competency to drive and understand the country's laws. Federal law requires all employees to complete an I-9 form, which requires both proof of identity and eligibility to work, so a driver's license alone is not enough. Public benefits programs also require additional proof of identity and immigration status, so there is no risk of undocumented workers getting benefits that only legal immigrants or citizens are entitled to.



Source: NCLR

Sample Talking Points on Expiration Dates

Tying Driver's License Expiration To Nonimmigrant Visa Expiration Is Ineffective And Is An Unfunded Mandate To States

Background

H.R. 4043 would require all states to have special rules for persons with "nonimmigrant" visas. Nonimmigrant visas are issued for a nonpermanent stay in the United States, such as a student visa, temporary work visa, or a tourist visa. Under H.R. 4043, states would be required to ensure that a driver's license issued to a nonimmigrant expires no later than the date of expiration of the nonimmigrant's visa. If the visa has been "superseded" or "modified," states would be permitted to issue the license for a period of up to five years. Although this bill falls one step short of an absolute mandate to states, the effect is the same, since driver's licenses issued by states that fail to comply with the new requirement would not be accepted by federal agencies.

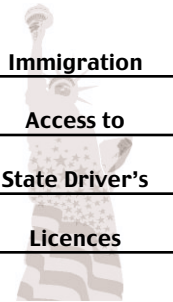
Analysis

Although H.R. 4043 sounds simple, it would be complicated for states to implement due to the Byzantine nature of immigration law. The new requirement would have the effect of imposing a significant and costly new mandate on states in a time of tight state budgets. All, or nearly all states will have little choice but to change their laws to comply with this new federal standardization. Moreover, the new requirement is likely to lead to increased discrimination against people who look or sound foreign. Interpretation and enforcement of immigration law is best left to the federal government, not state DMVs.

- **Nonimmigrant verification is a major unfunded mandate on state governments.** Although H.R. 4043 authorizes some unfunded grants to states, it is very unlikely that sufficient money to cover actual costs will be appropriated in the current tight fiscal environment. The bill does not exempt states from the serious effects of the law (inability of state residents to use driver's licenses as IDs before federal agencies) if and when federal funds are insufficient to compensate states for making costly and complicated modifications to their current driver's license issuance process.

Costs imposed on states by H.R. 4043 go beyond merely changing forms and rules. Some of the items that will require significant state expenditures include:

- ❖ Training of DMV line and supervisory personnel.
- ❖ Reprogramming of DMV computers and other systems to issue licenses with expiration dates that are different from other driver's licenses.



- ❖ Verification of nonimmigrant status.
 - ❖ Redesign of appeals processes.
 - ❖ Requiring nonimmigrants to come back into DMVs upon expiration of the visa (as opposed to doing the less-costly renewals by mail).
- **Errors will result from state DMV line personnel trying to learn and interpret complicated immigration law provisions.** The distinction between "nonimmigrants" and other noncitizens will be extremely difficult for DMV workers to understand. Now, in states where immigration status is verified, DMV workers only must verify whether the driver's license applicant has an INS document that is on a preexisting list. Actually learning to interpret the document, and understand when it expires, is a much more complicated undertaking that is difficult without specific immigration training. Most noncitizens will have no idea whether they are "nonimmigrants" or not. They will show up at DMV without being able to answer this question.
 - **Nonimmigrant visas do not have uniform documentation nor do they have a simple expiration date.** Some nonimmigrant statuses have a defined expiration date, but many very important ones do not. For example, "F" nonimmigrant students are granted student status that is valid for "duration of status," i.e., for as long as the individual continues to maintain a full-time course of study at an accredited school or university. "I" nonimmigrant members of the international press corps are also admitted for duration of status. "A" diplomats and "G" employees of international organizations are also in the United States for duration of status. "E" nonimmigrant treaty traders or investors are not duration of status, but as a practical matter, their status continues to be extended as long as their trade or investment continues.
 - **H.R. 4043 will lead to increased discrimination against persons perceived to be foreign.** People who look or sound foreign are the most likely to be harmed by the new requirement. Some DMV personnel will make unwarranted assumptions about immigration status based on their own preconceptions of what a nonimmigrant looks like.
 - **H.R. 4043 will not bolster security.** Sophisticated terrorists will have an easy time circumventing the requirements of H.R. 4043, so that our security will not be enhanced at all. H.R. 4043 only applies to certain alien status categories, and not to others. Terrorists can evade its measures by acting before their status expires, or by avoiding the "nonimmigrant" status categories altogether. Alternatively, they can falsify documents. It is important to remember that driver's licenses are not required to board planes or enter federal buildings. Would-be terrorists can use their foreign passports for those purposes.



Sample Talking Points on Driver's License Identifiers

Recently, several states have attempted to identify noncitizens by placing special identifiers on their driver's licenses. In some states, some immigrants may have "noncitizen" appear on their license. Other states have proposed stamping "nonrenewable," "nontransferable," "temporary," or some other mark on the driver's license which identifies the individual as a noncitizen. In some states where immigrants without Social Security Numbers (SSNs) may use Individual Taxpayer Identification Numbers (ITINs) instead of SSNs, the words "none provided" may appear where the SSN usually appears.

Any identifier on a driver's license which singles out an individual as a noncitizen or indicates the immigration status of an individual has harmful consequences for immigrants and for American communities.

- **Driver's license identifiers do not prevent terrorism or protect national security.** Identifying someone as a noncitizen only points out that the person is not a citizen. Noncitizens are no more or less likely to be terrorists.
- **Driver's license identifiers single out people for abuse and discrimination.** People who have been identified as noncitizens are likely to be treated differently or suspiciously by law enforcement, other government agencies, and even by private businesses and individuals. Why identify someone as a noncitizen if the intention is not to treat him differently or with suspicion? Doing so is discrimination. Discrimination leads to litigation and legal expenses because discrimination is illegal in the U.S.
- **Driver's license identifiers lead to increased discrimination against persons perceived to be foreign.** Noncitizens are not the only ones who will be subject to discrimination; U.S. citizens and legal permanent residents will be hurt as well. People who look or sound foreign are the most likely to be harmed by special identifiers and are likely to be stopped and asked for documentation or asked to provide additional forms of identification.
- **Driver's license identifiers erode community trust.** People may choose not to get driver's licenses if they fear discrimination or think they will be targeted for being a noncitizen. This increases the number of unlicensed drivers. Persons who fear discrimination and being reported to the immigration authorities may also avoid contact with law enforcement; immigrants are unwilling to report crimes and assist local law enforcement fight criminal and terrorist activity. This decreases community trust and infringes upon efforts to fight crime and save lives. In most states, law enforcement officials are opposed to restrictions on driver's licenses, citing public safety, fraud prevention, battling corruption, and crime prevention.



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Expiration Dates as Identifiers

Some states have attempted to tie the expiration date of a driver's license to the expiration of a nonimmigrant visa (a nonimmigrant visa is a temporary visa issued to tourists, students, people in the U.S. for temporary employment, and others). This process is complicated and costly and likely to result in errors. Furthermore, the expiration date on the driver's license identifies the holder of the license as a temporary nonimmigrant because the driver's license will be valid for a short amount of time or because the date does not coincide with the holder's birth date. Therefore, in addition to the points listed above, linking expiration dates poses some additional dangers:

- **Errors will result from state DMV line personnel trying to learn and interpret complicated immigration law provisions.** The distinction between "nonimmigrants" and other noncitizens will be extremely difficult for DMV workers to understand. The term "nonimmigrant" is a technical, legal term, and most noncitizens will have no idea whether they are "nonimmigrants" or not.
- **Nonimmigrant visas do not have uniform documentation nor do they have a simple expiration date.** Some nonimmigrant statuses have a defined expiration date, but many very important ones do not. For example, some visas are valid for "duration of status." Many nonimmigrants extend their visas after they have expired, so while the visa may appear to have expired, the immigrant may have received an extension that is not reflected on the visa.



Sample Fact Sheet

Social Security Number Requirements

There are a variety of federal policies that have come to include Social Security Number (SSN) requirements. Though the number was explicitly intended only for the purpose of administering the Social Security program, the use of the SSN is ubiquitous; the SSN is used by both government and nongovernment entities for numerous purposes. However, the original purpose of the SSN was far less expansive. Created under the federal Social Security Act, the SSN was originally designed to keep track of an individual's earnings and eligibility benefits. In 1996, two major pieces of federal legislation addressed the use of the SSN for the purposes of obtaining a state-issued DL: the federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 ("Welfare Reform") and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) of 1996 ("Immigration Reform"). The result of these changes has been that, although not mandated by the federal government, many state DL agencies now require an SSN to apply for a DL, and anyone without an SSN is not able to obtain a DL in those states legally.



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Section 656 (b) of IIRAIRA mandated that all state driver's licensing agencies must request the SSN of all DL applicants and place the SSN on the DL, resulting in the creation of a de facto national ID card. A coalition of various advocacy groups led by the states themselves vigorously opposed this provision on the grounds that it violated privacy rights, would lead to increased identity theft, and would result in increased discrimination against immigrants and certain ethnic groups. Due to the overwhelming opposition, the Section 656(b) mandate was repealed in October 1999.

However, PRWORA also contained a provision requesting that state DL agencies record the SSN of applicants for certain licenses and also that the SSN be recorded on certain court-issued and medical documents for the purpose of child support enforcement. Specifically, Section 466(a)(13)(A) directed SSNs be recorded on applications for professional licenses, commercial driver's licenses, occupational licenses, and marriage licenses.

Subsequent legislation was enacted eliminating the "commercial driver's license" specification and applying Section 466(a)(13)(A) to the issuance of all driver's licenses. State licensing agencies were given until October 1, 2000 to implement policies and procedures for Section 466 (a)(13)(A).

When Departments of Public Safety and Motor Vehicles began the process of implementing Section 466(a)(13)(A) agency staff and advocates requested an interpretation by the proper federal agency (in this case, the U.S. Department of Health and Human Services [DHHS] because the provision dealt with child support enforcement). When asked if Section 466(a)(13)(A) mandated the SSN as a condition for a driver's license, Commissioner David

Gray Ross of the DHHS's Office of Child Support Enforcement offered this interpretation:

We interpret Section 466(a)(13)(A) to require that States have procedures which require an individual to furnish any social security number that he or she may have. [However,] Section 466(a)(13)(A) does not require that an individual have a social security number as a condition of receiving a license.*

Additionally, Commissioner Ross recommended that state licensing agencies require those applicants without an SSN to sign a sworn affidavit, under penalty of perjury, stating that they do not have a SSN nor are they eligible for an SSN.

Since the interpretation was issued to child support directors, and not driver's licensing agencies, it is possible that many state DL administrators were not aware of this interpretation. Whether state driver's licensing agencies were aware of the interpretation or not, Section 466(a)(13)(A) has been misapplied in numerous states. Many state DL administrators now require an SSN as a condition to apply for a driver's license. As a result of the SSN requirements, advocates in some states report that, in addition to undocumented immigrants, many noncitizens who are in the U.S. legally are not able to obtain DLs because they are ineligible for SSNs or have not yet been assigned one. Some noncitizens are in the U.S. legally, but their status does not permit them to work here legally and they do not have SSNs, which prevents them from obtaining a DL. Other immigrants are in the process of adjusting to legal status but have not yet received their SSN – they are also unable to obtain a DL.



Source: NCLR

* PIQ-99-05 July 14, 1999. The memo is available at <http://www.acf.dhhs.gov/programs/cse/pol/piq-9905.htm>

Sample Fact Sheet

Biometrics: A foolproof means of verification of identity? Or, are there privacy issues that must be addressed?

What are biometrics? Biometrics are unique biological characteristics which distinguish one person from another. Biometric measures include fingerprints, voice, finger and face scans, retinal scans, and hand geometry.

Potential for misuse of biometrics: Where a biometric identifier (i.e., a fingerprint or retinal scan) is used as a unique identifier to catalogue personal information about an individual (without the individual's consent or knowledge), it would enable the pinpointing and tracking of individuals. In addition to this potential for surveillance, biometrics used as unique identifiers raise additional concerns about the possible use of information out of context and the potential for decisions being made based on a profile.

Where proper safeguards are in place, biometrics can ensure an individual's privacy and guard against the potential for surveillance. The individual must be in the position to control the use of his or her biometric to ensure that government, private business, or any other entity does not. Tools necessary to ensure individual control:

- Allowing the consumer to choose whether to use a biometric to protect his or her identity
- Encrypting the biometric scan (and destroying the original biometric collected) to ensure that the scan does not function as a unique identifier (in addition, ensuring that an encrypted scan cannot itself be used as a unique identifier)
- Prohibiting the system from having the capacity to reconstruct or recreate original biometric from the encrypted data
- Restricting the use of the encrypted information only to authentication of identity, thereby ensuring that it is not used as an instrument of social control or surveillance
- Ensuring that a latent print (i.e., picked up from a crime scene), cannot be reconstructed from an encrypted scan stored in the database
- Ensuring that strict controls are in place as to who may access the biometric information and what purposes that it may be used for
- Requiring the production of a warrant prior to granting access to external agencies such as governmental agencies
- Ensuring that any personal data (e.g., name, date of birth, biometrics scan) are stored separately from financial or other information regarding the individual

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Biometrics and Databases

Overview of Biometrics

Biometrics refers to the automatic identification of living persons using their enduring physical or behavioral characteristics. Many body parts, personal characteristics, and imaging methods have been suggested and used for biometric systems: fingers, hands, feet, faces, eyes, ears, teeth, veins, voices, signatures, typing styles, gaits, and odors.¹

Digitized biometric information about individuals can be collected and put into large, accessible databases. "Biometrics software takes photographs or scans of physical features such as facial features, retinas, or fingerprints and quantifies that information into mathematical algorithms. Facial biometrics quantify the distances between major points such as the eyes, nose, or temples, and fingerprint biometrics quantify the distances between branches and endpoints of the ridges. Once the information is stored, scans of the thumb or other physical features can be crosschecked with existing databases to verify identity."²

Use of biometric identifiers to prevent fraudulent issuances of licenses depends on the existence of one or more accurate databases against which the applicants' biometric information can be compared. Once adopted and entered into such a database, biometric identifiers could substitute for or supplement other unique identifiers such as Social Security numbers (SSNs). They could be used for everything from building and airport entry to credit applications and health care instructions, and of course for immigration control. However, biometrics will not prevent individuals from claiming a false identity when they enroll in the system, and can only match against the identity originally claimed.

How biometric data can be stored and retrieved through a driver's license

- **Magnetic stripe and 1-D bar code.** Can provide a numerical identifier for an individual, which can be referenced with a separately stored database. The code is the "key" to the database.
- **PDF417.**³ Unlike the bar code, which depends on real-time links to larger databases, PDF417 symbols are the database. This means that an individual's SSN, digital photo, digital fingerprint, and other information can all be stored onto the PDF417. It can exchange complete data files



1 Electronic Frontier Foundation - <http://www.eff.org/Privacy/Surveillance/biometrics/>

2 National Conference of State Legislatures, "Drivers Licensing and Identification Card Security: Review of 2002 State Legislation" (September 2002), available at <http://www.ncsl.org/programs/esnr/licensetranrev02.htm>

3 PDF417 symbols are the database. PDF417 was developed by a company called Symbol Technologies (www.symbol.com).

(such as text, numerics, or binary) and encode graphics, fingerprints, shipping manifests, electronic data interchange (EDI) messages, equipment calibration instructions, and much more. The American Association of Motor Vehicle Administrators (AAMVA) has approved and published PDF417 for a broad range of driver and motor vehicle applications.

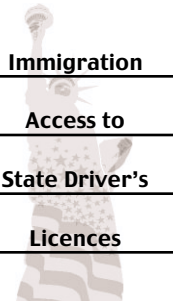
Current Use of Biometrics in Driver's Licenses

- Only about 12 states currently require finger- or thumbprints for their driver's licenses.
- According to a September 2002 report by the National Conference of State Legislatures (NCSL), "only Georgia uses fingerprint scans to verify the applicant's identity when issuing a replacement license. West Virginia uses facial recognition technology to verify identity of individuals seeking to renew or replace a driver's license."⁴
- According to NCSL, of the 12 states that considered biometrics legislation during 2001-2002, five states failed to pass the legislation, and an additional three states failed to pass legislation requiring fingerprints.⁵

The Risks for Non-U.S. Citizens Posed By the Use of Biometric Technology in Driver's Licenses

If immigrants are singled out for use of biometric identifiers (or, with regard to some points, if the database is capable of segregating the immigrants):

- The goals of preventing issuance of multiple driver's licenses or ensuring that the person who receives the renewal license is the person who received the initial license would not be served.
- It would make it a great deal easier for the state to implement a problematic or inaccurate system, because only immigrants would suffer the consequences.
- It would make immigrants far more vulnerable than others to nonimmigration-related law enforcement.
- It would be much easier for officials at some later date to misuse the information for immigration enforcement, particularly in jurisdictions where the local police are tasked with enforcing immigration law (a



4 Morris, Reed. "Driver Licensing and Identification Card Security: Review of 2002 State Legislation," National Conference of State Legislatures (September 2002), p. 6. available at <http://www.ncsl.org/programs/esnr/licensetranrev02.htm>.

5 Id. Appendix D: Biometrics Implementation Legislation by State, available at <http://www.ncsl.org/programs/esnr/licenseD.htm>.

growing nationwide trend). Biometric identifiers provide a more comprehensive mechanism for data-sharing than Social Security Numbers.

- Some immigrants may have even greater privacy concerns than the general population. These people may include political dissidents who have received asylum in the United States, survivors of domestic violence, or survivors of crimes or alien trafficking who have received nonimmigrant visas.

Questions About the Use of Biometrics in Driver's Licenses

Is there a Clear Statement of Purpose for the Use of Biometrics in Driver's Licenses?

To state the obvious, any proposal to use biometric systems in driver's license must have a clear statement of purpose, and the proposed systems must be measured against that statement of purpose.

Do Biometric Systems Establish Identity?

Biometrics can only match an individual against the identity s/he claimed when enrolled in the system and are no help if the original identity was false. A person who presents a false birth certificate can obtain a valid driver's license, and the biometric identifier will belong to him/her. Once s/he is in the biometrics system using that birth certificate, the system cannot tell who s/he really is, only who s/he claimed to be at enrollment.

Use of biometric systems will not deal with a major source of improperly issued driver's licenses, namely illegal issuance of driver's licenses by state driver's license officials.

For example, multiple recent cases involve the bribing of DMV personnel. On July 2, 2003 two Virginia Department of Motor Vehicles clerks and four non-DMV associates were arrested in a \$1 million scheme to produce and sell valid driver's licenses to unqualified drivers during the past five years. The drivers were not Virginia residents, couldn't pass the required tests, couldn't prove their identity, or used false names and Social Security Numbers. DMV personnel were charged in a bribery scheme that produced about 100 legitimate driver's licenses. The DMV employees falsely recorded that the applicants had recently moved to Virginia from another state and had surrendered a license issued there. In June 2002, 36 people – including New Jersey DMV employees – were arrested for involvement in a bribery plot in which an unknown number of legitimate driver's licenses were issued illegally. In February 2002, nine people – including three New York DMV personnel – were charged in a bribery scheme that produced about 100 legitimate driver's licenses.⁶



6 A Briefing on Public Policy Issues Affecting Civil Liberties, CDT Policy Post, Vol. 8, No. 17, September 5, 2002, available at http://cdt.org/publications/pp_8.17.shtml.

Even in the area of commercial licensing, where states have a single database and follow uniform federal standards as required under the Commercial Motor Vehicle Safety Act of 1986 (CMVSA), bribery is common. This was illustrated in a case in Illinois where at least 175 cases of fraud have been alleged. In December 2001, an eight-year employee of the New York DMV was involved in a bribery scheme to steal the personal information of licensed drivers from the DMV computer database over a two-year period, indicating that there is already a known market for personal information held by the DMV.⁷

Adding new features to the card, such as a biometrics identifier, will not protect against such fraud. Methods for combating fraud in driver's license issuance include enhancing background checks, training, and oversight of DMV employees.

Do Biometric Identifiers in Driver's Licenses Prevent Counterfeiting of the Licenses?

A digitized fingerprint does not add to the security of the driver's license. "If the card technology is not secure, e.g., the card can be easily duplicated or altered, then so can the digitized thumbprint."⁸

Is Biometric Technology Accurate?

The accuracy of biometric technology in the driver's license context is unproven. As the Electronic Privacy Information Center (EPIC) stated, "biometrics technology is not yet sufficiently advanced to accurately identify all members of a large population of licensed drivers." In some cases, a "false positive" will occur, where the database mistakenly confirms the identity of an individual. Similarly, the system may sometimes return a "false negative" and mistakenly reject as false the identity of an individual who actually is the right person. False negatives may occur because the individual may have moved his/her finger at the wrong time, the part of the body used may be injured, or the behavior being measured may have changed.⁹

One EPIC report indicated that automated fingerprint examination has a 3% error rate, which would mean that over 800,000 Californians could be

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6 A Briefing on Public Policy Issues Affecting Civil Liberties, CDT Policy Post, Vol. 8, No. 17, September 5, 2002, available at http://cdt.org/publications/pp_8.17.shtml.

7 Id.

8 Letter from Lee Tien, Senior Staff Attorney, Electronic Frontier Foundation, to California Assemblyman Fabian Nunez, available at <http://www EFF.org/Privacy/Surveillance/biometrics/letter-to-nunez.php>

9 Clarke, Roger, "Biometrics and Privacy." Principal, Xamax Consultancy Pty Ltd., Canberra, Visiting Fellow, Department of Computer Science, Australian National University (April 2001), available at <http://www.anu.edu.au/people/Roger.Clarke./DV/Biometrics.html>

incorrectly identified in a database.¹⁰ A study by the National Institute for Standards in Technology showed that face recognition biometric technology turned up false positives in matching scans with a database 43% of the time.¹¹ According to a 1997 Biometric Identification Research Center report (for AAMVA), false non-matches occur at a rate of 2% to 10%.¹²

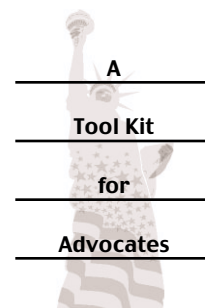
Any large computer registry will be contaminated with large amounts of faulty data that will render the system unreliable. Even the best government databases have error rates of 10, 20, and 30%. But, for example, if a national computer registry of all U.S. workers had an error rate of just 1%, the federal government would wrongly deny jobs to 650,000 American workers each year because of bureaucratic mistakes in Washington.¹³

Claims of accuracy made by biometric technology vendors are unreliable. "Accuracy and error rates published by biometric technology vendors are not trustworthy, as biometric error rates are intrinsically manipulable.... When subjected to real-world testing in the proposed operating environment, biometric systems frequently fall short of the performance promised by vendors."¹⁴

Would Databases Containing Biometric Information Be Secure?

Many privacy organizations consider personal information in the hands of the government to be "categorically *unprivate*."¹⁵ Databases contain large quantities of personal information. Databases and the channels used to share person-identifying information are "natural targets for attack, theft, compromise, and malicious or fraudulent use."¹⁶

Wayne Crews, director of technology studies at the Cato Institute in Washington, said that big, compulsory databases, like those for driver's



10 Statement of Marc Rotenberg before the United States Senate Special Committee on Aging, available at http://www.epic.org/privacy/biometrics/testimony_071802.html. See also, report by MI State University, available at <http://biometrics.cse.msu.edu/cvpr230.pdf> and report by Biometric Identification Research Center, available at <http://www.aamva.org/Documents/stdBiomStdResearch.pdf>

11 Wayman, James L, "Biometric Identification Standards Research: Final Report" (Dec. 1997), available at <http://www.aamva.org/documents/sdtbiomstdresearch.pdf>

12 Report by the Biometric Identification Research Center, available at <http://www.aamva.org/Documents/stdBiomStdResearch.pdf>

13 Miller, John J. and Stephen Moore, "A National ID System: Big Brother's Solution to Illegal Immigration." Cato Policy Analysis No. 237 (Sept. 1995), available at <http://www.cato.org/pubs/pas/pa237.html>.

14 Electronic Frontier Foundation - <http://www.eff.org/Privacy/Surveillance/biometrics/>

15 Prepared Remarks of Jim Harper, Editor of www.Privacilla.org to the American Bar Association Section of Science and Technology Law Panel, "Biometrics: New Weapons in the War Against Terrorism or New Blow to Privacy" (August 11, 2002).

16 Electronic Frontier Foundation - <http://www.eff.org/Privacy/Surveillance/biometrics/>

licenses and other IDs which store finger or facial images, can be abused by officials, identity thieves, or others who find a way into them.¹⁷

Security of databases is an issue at every level of connectivity, including DMVs and other state and federal agencies to which information may be transmitted. The accuracy of DHS databases and the adequacy of technology, including the security of its systems, have been criticized in report after report of the General Accounting Office and the Department of Justice Office of Inspector General.¹⁸

Would the Uses of Biometric Identifiers Be Limited?

Biometrics can be a linking identifier if they are standardized. This is what happened with the Social Security Number: once the government created this identifier, it became a standard way of identifying people and became a "linker across disparate databases."¹⁹ The standardization of biometrics would create new privacy risks, "because information gathered for one purpose can be used for completely unrelated, unconsented-to purposes."²⁰ Even if the use of the biometric identifier is initially limited, there will be the temptation to use it for other purposes in a process of "function creep."

Would Biometric Data Collected in a Centralized Database Be Shared or Sold?

Several states already have shared or sold personal information that is collected along with driver's licenses. For example, a Colorado law requires the Department of Revenue to establish an electronic transfer system to sell bulk quantities of information not otherwise protected to "primary users and vendors." The information available for sale in bulk quantities includes names, addresses, date of birth, driving records, restrictions (e.g., "must wear glasses"), and other information associated with the license and vehicle registration. The legislation requires that personal information be sold both to "primary users" (such as automobile insurance companies,

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17 Kilborn, Peter T., "Thumb Is the New Currency at Store, at Bank, on the Job," New York Times (Feb. 20, 2002), available at: http://www.sba.muohio.edu/bartlejl/_Spring03_MIS385/misc/903591.htm.

18 See, for example, United States General Accounting Office, Information Technology, "Homeland Security Needs to Improve Entry Exit System Expenditure Planning," (June 2003); United States Department of Justice, Office of the Inspector General, Evaluation and Inspections Division, "The Immigration and Naturalization Service's Removal of Aliens Issued Final Orders," (Feb. 2003); United States Department of Justice, Office of the Inspector General, "Immigration and Naturalization Service's Ability to Provide Timely and Accurate Information to the Social Security Administration," (Nov. 2002). See also, Institute for Survey Research and Westat, "INS Basic Pilot Evaluation," Report to the U.S. Department of Justice Immigration and Naturalization Service (Jan. 2002).

19 Electronic Frontier Foundation - <http://www.eff.org/Privacy/Surveillance/biometrics/>

20 Electronic Frontier Foundation - <http://www.eff.org/Privacy/Surveillance/biometrics/>

which use the information for their own purposes) and to companies that resell the information to other companies.²¹

In early 1999, politicians in three states – Florida, South Carolina, and Colorado – agreed to sell a combined total of 22.5 million driver's license photographs to Image Data LLD, a private anti-fraud company in New Hampshire. The company was purporting to use the images to create a nationwide photographic database, which retailers could access to verify the use of credit cards and to prevent fraud. However, the images were being sold without the permission or consent of the residents of those states. The company was reportedly funded in large part by the Secret Service. Because of the appearance of impropriety and the undercurrent of "Big Brother" sentiment created by that association, the states backed out of the proposal. This was only after widespread political criticism in Washington, D.C. of the program. Nevertheless, these states have indicated a continued willingness to sell such photographs to private companies under the right set of circumstances.²²

A New York Times article revealed that Boston-area bartenders, while using a magnetic card stripe reader to "verify" their patrons' state driver's licenses, are also, without patrons' knowledge or consent, collecting their personal data (including home address, sex, height, weight, and physical appearance) for marketing purposes.²³



21 CO St §42-1-206.

22 See "Secret Service Aided License Photo Database," available at <http://www.cnn.com/US/9902/18/license.photos/>; "Smile for the US Secret Service," available at <http://www.wired.com/news/politics/0,1283,21607-2,00.html>.

23 Lee, Jennifer, "Welcome to the Database Lounge." New York Times (March 21, 2002).

Source: National Immigration Law Center

III. BUILDING COALITIONS

Coalitions – groups of independent organizations that join together for information-sharing, advocacy, or other cooperative activities ranging from research to service delivery – are an increasingly important vehicle for accomplishing positive community change. The most powerful effort today’s advocates can undertake to effect change is to build a coalition of people and groups in their communities who are sympathetic to their point of view. By approaching, and then convincing, potential partners to join together to work for a common goal, the advocates gain a coalition whose combined strength will provide them with greater opportunities to reach out and spread their message to the public.



Building a grassroots effort with business, labor, community activists, and other "nontraditional allies," along with more "traditional" immigrant advocates, will help fight through opponents’ noise to be heard. Your clout will increase due to an active organized effort supported by several segments of the community. Several voices together are always stronger than one. When elected officials discover that a coalition of people they serve has joined together for a common goal, they will have to give the group more attention and, therefore, a greater chance of making an impact and influencing public policy decisions.

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Why form a coalition?

Coalitions are typically formed to meet one or more of the following needs:

- **To accomplish a specific advocacy goal**, where individual advocacy agency efforts are likely to be less effective than a unified community voice in support of or opposition to a particular policy, program, or action – for example, to urge the state to provide all immigrants access to driver’s licenses.
- **To reduce staff and other costs for accomplishing a common goal by sharing work and responsibilities.**
- **To share information or ideas** so that all coalition members are better informed about important issues or programs – such as new proposals to deny driver’s licenses to immigrants.
- **To decrease isolation and increase collaboration**, enabling organizations that cannot easily carry out specific activities individually to participate indirectly through the coalition’s activities.

The effectiveness of a coalition depends to a considerable degree upon the organizational skills, commitment, interest, and contributions of time and effort of its members. Even with staff, coalitions are rarely effective unless they are bound by commitment, shared interests, and priorities sufficient to ensure ongoing participation by a significant proportion of their members. A coalition is likely to survive if it proves effective enough that there is a high positive return on the time and other resource investments of its members. Thus, a coalition that successfully supports or opposes legislation or regulations, or accomplishes other agreed-upon objectives, is likely to survive and grow.



Characteristics of Effective Coalitions

1. **Clearly defined purpose and scope.** Goals, objectives, and strategies are made clear and understandable. The coalition does not try to do everything; instead, it has a clear focus. Ensuring immigrant access to driver’s licenses is a clearly defined goal. The coalition may suffer or become ineffective if some members wish to broaden the scope to include other immigration or nonimmigration-related issues.
2. **Coordinate.** Legislators do need to hear from many groups repeatedly, but when time and resources are limited, a "divide and conquer" strategy may work better than everyone focusing on the same lawmaker. Divide up responsibilities rather than have everyone contact the same people, especially when time is limited.
3. **Share resources.** All coalition members should share and receive the same legislative alerts, newsletters, and other materials. Put your coalition partners on your mailing list.

4. **Network.** While you may not know anyone who can get your Senators on the phone, perhaps one of your coalition partners does. If you are working together, the "contact" can speak for the entire coalition (if everyone agrees), rather than just one group.
5. **Do not take positions that are bound to be divisive** because they pit the interests of some coalition members against the interests of other members.
6. **Work together.** Visit legislators as a coalition to demonstrate a "united front." When appropriate, you may also want to draft a coalition letter that each member or organization signs.
7. **Sponsor public events.** Press conferences shortly before an important vote or event help get the coalition's message across and demonstrate the breadth of support.
8. **Expand.** Continually seek out other groups who share the coalition's concerns and positions on the issues. Encourage them to join your coalition.
9. **Obtain time and resource commitments from members.** One group cannot do all the work or supply all of the resources. Allow groups with limited financial resources to make in-kind contributions.

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Potential allies and coalition partners include:

- | | |
|----------------------------------|--------------------------------------|
| Police departments | Farm bureaus |
| Auto insurance companies | Mothers Against Drunk Driving (MADD) |
| Businesses who employ immigrants | City Councils |
| Chambers of commerce | Hotel and lodging associations |
| Ethnic organizations | Building trades/construction |
| Elected officials | Churches |
| Unions | Civil rights/social justice groups |

Source: Developing Effective Health Coalitions: The Role of Hispanic Community-Based Organizations, NCLR, Nov. 1991. and Immigration Works! It's Who We are Campaign Tool Kit, AILA, 2003.

Sample Coalition Letter

FLORIDA IMMIGRANT COALITION
"Together Securing Fair Policies for Florida's Immigrants"
A program of the Florida Immigrant Advocacy Center
3000 Biscayne Blvd. #400, Miami, Florida 33137
Fax 305-576-6273, Phone 305-573-1106, dskovholt@fiacfla.org
Coalition Coordinator: David Skovholt

February 22, 2002

The Honorable Jeb Bush
Governor of Florida
State Capitol
Tallahassee, Florida 32399

Dear Governor Bush:

The undersigned Florida organizations urge you to rescind Executive Order No. 300, the new administrative policy adopted by the Department of Highway Safety and Motor Vehicles (DHSMV) and to oppose bills limiting noncitizen and naturalized citizen access to licenses and state identification. These measures have a significant effect on hardworking, law-abiding people.

The Executive Order provides for electronic information-sharing between the DHSMV and criminal justice agencies, issuing of 30-day permits, limiting the duration of licenses to the duration of INS documents, training of personnel on foreign document verification, and retaining of electronic copies of foreign identification documents.

The new administrative policy severely limits the number of licensing offices serving noncitizens in Miami-Dade, Broward, Hillsborough, Penelas, Collier, and Orange Counties. It also requires proof of immigration status for all services even when the information was previously provided, requires the confiscation of issued licenses and identification if people do not have INS papers with them, and compels documents that are not considered essential by INS to prove status.

The proposed bills are a potential for discrimination and abuse and would further restrict access by requiring that applicants identify country of birth, reduce the validity period for noncitizens, including Lawful Permanent Residents and Refugees, and restrict the recognition of licenses from other states.

The restrictions are unsound for the following reasons:

Floridians have not been consulted.

These restrictions were adopted and proposed in haste without comment from the public, including immigrant communities, when 17% of Floridians are foreign-born and 7% are naturalized citizens. Miami-Dade's population is 51% foreign-born.





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The restrictions lessen motor vehicle and highway safety.

The state should promote road safety by encouraging licensed and insured drivers. Immigrants need to drive to work, perform travel-related job tasks, and meet the basic necessities of living. The restrictions create circumstances that force untrained, unlicensed, and uninsured drivers onto the road, making highways less safe.

The restrictions hurt agriculture, tourism, and business.

The restrictions hurt Florida's key industries, agriculture and tourism, that rely heavily on immigrant workers. Many migrant farmworkers will be unable to drive legally to pick the orange and sugar harvest nor will waiters and housekeepers be able to drive to hotels to serve tourists. These restrictions discourage foreign investments in Florida by making it difficult for foreign nationals to conduct business.

The restrictions are costly.

At a time when the state is experiencing a financial crisis, shifting the focus of the DHSMV to law enforcement adds unnecessary costs.

The restrictions do not deter terrorism.

The restrictions will not keep terrorists from engaging in terrorist acts. Identification of country of birth by applicants will add nothing to security and will give way to discrimination based on national origin.

Restrictions limit legally residing immigrants.

Current DHSMV policy requires documentation that is unreasonable and has resulted in many legally residing immigrants, including Refugees, Asylees, and Legal Permanent Residents, having their licenses confiscated. Many others have been unable to obtain first-time licenses or ID cards. DHSMV should not ask for documents that are not required by INS.

Homeless people need identification.

Homeless people need state identification to access social services, hospitals, and government programs. They depend on driver's license records from other states to obtain identification in Florida. Not recognizing the validity of licenses from other states will keep people from moving out of homelessness.

INS policy should be enforced by INS.

INS laws are noncriminal and are enforced by INS officers fully trained for that purpose. Employees of the DHSMV lack the expertise to interpret the wide range of INS documents and to enforce INS policy. The DHSMV should not be turned into a criminal justice enforcement agency.

Verification by INS within 30 days is unrealistic.

It has been shown that INS databases are incomplete and cannot provide quick verification of status. Information from old INS physical files has not been computerized. Lawful immigrants have gone through background checks by INS to acquire their status. Immigrants who show proof of status should not be subject to continuous monitoring by the DHSMV.

The DHSMV lacks expertise to implement the restrictions.

The DHSMV lacks the expertise to interpret the INS documents used to show status. The inability to implement a working data-sharing system and limiting immigrants to a few offices in certain counties will unnecessarily harm immigrants.

We urge you to rescind the order and policy and oppose the pending bills.

Respectfully submitted,

Florida Immigrant Advocacy Center
ACLU of Florida
American Immigration Lawyers
Association, South Florida Chapter
American Venezuelan Business League
Association of Guatemalan Americans
Caridad Health Clinic
Church World Service, Miami
Coalition of Immokalee Workers
Colombian American Service
Association
Federation of Ecuadorian Entities
Abroad
Florida Catholic Conference
Florida Coalition for the Homeless
Farmworker Association of Florida
Florida Legal Services
Fraternidad Nicaragünse
Guatemalan Unity Information
Association
Haitian Grassroots Coalition
Haitian Women of Miami

Hispanic-Latino Coalition of Sarasota
Honduran Unity
Humphrey and Whidden Insurance
Agency, Inc.
Human Services Coalition of Dade
County
Interfaith Action of Southwest Florida
Lutheran Social Services of Northeast
Florida
Maya King Express
Miami Coalition for the Homeless
Miami Workers Center
Migrant Association of South Florida
Organización Hondurana
Radio 1440 AM WWCL- Fort Myers
Redlands Christian Migrant Association
Southwest Florida Hispanic Chamber of
Commerce
Union of Salvadorans of South Florida
Unite for Dignity/SEIU 1199
United Brotherhood of Carpenters
Vicker's House of West Palm Beach

Copies to:

Florida legislators, county and city mayors, Florida agencies, community organizations



Sample Letter from Police Department

This letter was prepared by immigrant advocates in Kansas for use by local police departments but was not signed by any police officials.

Date

Senate Judiciary Committee
Senator John Vratil, Chairman
Kansas State Capitol, 522-S
Topeka, KS 66612

My commitment to my officers and the priority I place on the safety of those whom I am charged to protect compel me to strongly support Substitute HB 2039, which would allow immigrants to obtain a temporary driver's license in Kansas if they can prove their identity, residence in the state, and knowledge of traffic safety. As you know, current law prohibits immigrants who cannot prove lawful immigration status from obtaining a driver's license. This law, passed in 2000 without full consideration of its impact on our communities, creates a climate of insecurity and unnecessary risk for all Kansans and makes our jobs harder. We spend too much time issuing tickets for immigrant motorists who are forced to drive without licenses, insurance, and registration. We have difficulty identifying some immigrants when they are involved in a traffic incident, and we struggle to tear down the barricades of mistrust that separate us from a population we are charged to police. I respect my officers and their work to keep us safe, and I want them to have all of the necessary tools to do their jobs. To this end, I support legislation that makes knowledge of Kansas driving laws, positive identity, and ability to safely operate a motor vehicle the only prerequisites for becoming a licensed driver in Kansas.

As we know from our work in law enforcement, expanding opportunities to obtain driver's licenses is not incongruent with homeland security. Allowing law enforcement to positively identify all individuals within the state and encouraging immigrants to enter mainstream society will help us to identify potential threats and reduce our vulnerability. This ability is further enhanced by the specifics of HB 2039, which would require that immigrants return every three years, instead of every six, to verify their information, and would include a visual identifier to ensure that law enforcement officers do not mistake a temporary driver's license for proof of citizenship or lawful immigration status. As you know, driver's licenses have never been sufficient proof of eligibility for employment, voting, or receipt of public assistance in the United States, and the discussions around HB 2039 have helped to clarify this and ensure that the Kansas driver's license continues to serve its purpose as a tool of traffic control.

There are many compelling reasons to support HB 2039. It would reduce accidents caused by drivers unfamiliar with Kansas law and protect us in the event of an accident by reducing the number of uninsured drivers. It would have positive fiscal impact on Kansas through lower auto insurance premiums and additional vehicle

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registration revenue. It also recognizes economic realities in Kansas, where noncitizens are important contributors to our industry, communities, and society. For all of these reasons and because it is the right thing to do, I hope that the Senate Judiciary Committee votes Sub. HB 2039 favorably out of committee and that committee members serve as spokespeople for this legislation in the Senate. We cannot afford to wait any longer for our elected officials to take this vital step in ensuring the safety of all Kansans.

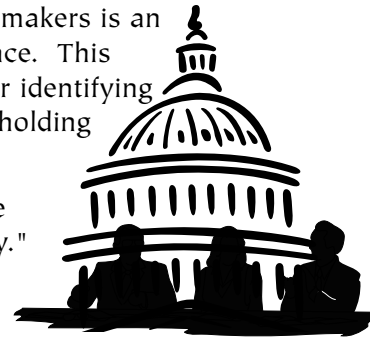
Sincerely,



IV MEETING WITH LEGISLATORS

Meeting with legislators and other policy-makers is an important part of the advocacy experience. This section provides information and tips for identifying the proper targets, arranging meetings, holding meetings, and following up after meetings.

Many nonprofit and grassroots organizations have questions about the law and their ability to "lobby." This section also contains information on laws relating to lobbying and advocacy activities by nonprofit organizations.



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Advocacy versus Lobbying

Overview

In an era in which public sentiment of the legislative process is very high, lobbying has a particularly bad reputation. In addition, with fairly strict regulations on what not-for-profit organizations can and cannot do to influence the legislative process, many groups are frightened of engaging in any type of advocacy. In fact, the activities that constitute lobbying, and are therefore restricted by government regulations or private foundation policies, are quite limited. **It is fairly difficult for a nonprofit or community-based organization to meet or exceed the government limits on the amount of lobbying they can do.**

Basic Rules for Lobbying

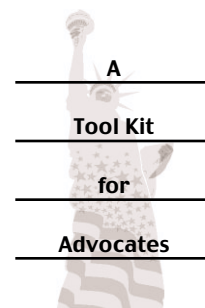
The law has fairly well-defined definitions of the amount of lobbying that not-for-profits can do, and what exactly constitutes lobbying. Some basic guidelines:

- Federal or other government funds cannot be used for lobbying.
- Foundations are governed by the same rules as other not-for-profits; many of them forbid their grantees from using grant funds to support lobbying.
- Nonprofits can elect to make limited expenditures to lobby under Sections 501 (h) and 4911 of the Tax Reform Act of 1976. Under this law (known as the Conable amendment), nonprofits cannot spend more than 20% of their total budget on lobbying activities.
- The Conable amendment has a second limit that applies to grassroots lobbying. Expenditures for this kind of lobbying cannot exceed 25% of total lobbying or 5% of the total budget of the nonprofit.

The Law

Most policy analyses are not considered lobbying:

- "Reasonable man (person)" test
 - Nonpartisan analysis test
 - Simple statement of an organizational position is not lobbying
- "Direct" lobbying involves the following three-part test:
- A **communication** with a legislator, staff person, or policy-making administration official that is made...
 - For the purpose of influencing a **specific** piece of legislation...; or
 - Which asks the legislator, staff person, or official to take an **action** that may be considered lobbying.



"Indirect" lobbying (or "grassroots" lobbying) occurs when any form of "call to action" is made in the communication. If the communication includes any one of the following four forms of a "call to action":

- Asks recipients to contact legislators; or
- States legislators address or phone numbers; or
- Provides a petition, postcards, or other material to be sent to legislators; or
- Refers to one or more legislators as opposing the communication's view, being undecided on the legislation, being a recipient's legislator, or being a member of a relevant committee or one with jurisdiction over the legislation. . .

...then the entire communication is considered lobbying.

Common Advocacy Activities That Are Not Lobbying

While it is important to err on the side of caution when keeping track of lobbying activities, it is also true that a number of non-lobbying activities can be confused for lobbying. For example, under the law, it is not lobbying to:

- Comment on proposed regulations from a public agency
- Complain to a school system about inequitable implementation of its desegregation plan
- Participate in a lawsuit
- Testify before a legislative body **provided** the body has requested in writing that you testify
- Advocate with the executive branch of government on policies or programs that are not legislative
- Provide information to a member of a legislative body or a staff person provided that the individual has requested that information in writing
- Conduct an unbiased, nonpartisan policy analysis of legislation or other policy

Basic Rules Governing Nonprofits:

- Nonprofit organizations generally cannot spend more than 20% of their total budget for lobbying activity. There is a second limit that applies to grassroots lobbying (25% of total lobbying or 5% of total budget) that may not be exceeded by nonprofit organizations.



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- No public funds may be used, directly or indirectly, for lobbying.
- Most foundations and some corporations require, as a condition of their grants, that their funds not be used for lobbying. (They are governed by the same rules as nonprofit organizations.)
- Most tax-deductible contributions may not be used for lobbying.



Source: The National Council of La Raza, Advocacy Training Manual, 1999.

Targeting Legislators

When a bill is introduced by a legislator, it is usually sent to the appropriate committee, which sends it to the appropriate subcommittee (where applicable) for consideration. Most driver's license bills will likely go to the Transportation Committee. States with bicameral legislatures generally have two Transportation Committees – one in the House and one in the Senate – that must be targeted.

Begin your advocacy with the subcommittee members. Most subcommittees have a Chair and a Vice Chair, or a Chair and a Minority Ranking Member. Subcommittees may have three, ten, or twenty members, depending on the size of the legislature. Identify each member of the subcommittee and give them information on your bill.

Then move to the committee. Like the subcommittees, committees have Chairs and Vice Chairs as well as members. Identify each member of the committee and give them information on your bill.

Then move to the full legislature, focusing on the House or Senate, when applicable. Each party has leadership in the legislature, and targeting the party leadership is a good starting point. Identify the Speaker of the House, the Speaker Pro Tempore of the Senate, the Majority Leader, the Minority Leader, the Whips, and other key legislators. These legislators are important decision-makers and often exert much influence over their colleagues. Providing them with information is very important.

Your friends in the legislature or the sponsor of the bill may have additional ideas about which legislators to target.



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How to Meet with Legislators

PREPARING FOR THE MEETING

- **DO YOUR HOMEWORK!** Know exactly what you want to say and carefully review your message.
- If possible, compile information about the impact of specific issues on the Members of Congress' district/state. However, do not compile a long list of statistics: your elected officials will not remember them and they will lose their impact. Prepare a few dramatic numbers or anecdotes to illustrate your points. Collect recent local news articles that illustrate the issue. Like most people, legislators more easily remember examples conveyed in human and personal terms.
- To encourage legislators to support your positions, present materials that clearly articulate your views, using specific case examples when possible.
- Know the counterarguments and be ready to respectfully answer any questions or disagreements.
- Make sure everyone in your group is prepared. Brief everyone attending the meeting **PRIOR** to the meeting and make sure they have any written materials (biographical profile of legislators and their views, etc.) to review well ahead of time.
- Be organized. Agree ahead of time on the role each participant will take, who discusses what, and in what order participants will speak.
- If you are going as part of a larger coalition, meet ahead of time. It is unwise to have an internal debate or conversation in front of your elected official. Be certain everyone agrees on your group's central message and what you want to ask the legislator to do for you.
- Prepare a packet to leave with your legislator which could include background information, fact sheets, and/or newspaper clippings. Attach your card to the packet.

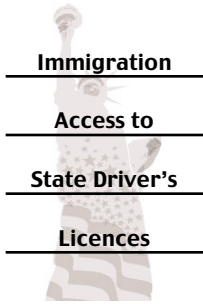
MAKING THE PRESENTATION

- Be on time!
- Begin by introducing yourselves.
- Explain to the legislator/staffer why you asked for the meeting.
- Present your concerns simply and directly. Get to your "bottom line" immediately. Be brief, direct, courteous, and positive. When presenting each issue, do not assume that your legislator has any prior knowledge of the subject. Presentation of each topic roughly should follow this outline:

BACKGROUND: Explain the issue in the simplest possible terms.

IMPACT: Explain how the issue directly affects your community or the group you represent.





RECOMMENDATION: Indicate what you would like your legislator to do.

- Do not fight with your legislator or staff members. Politely answer questions and concerns, but if you disagree, make your point and move on. Remember, you are meeting with the Member or staff person to inform him/her about your positions on issues.
- If you do not know the answer to a question, admit it, and promise to get back with the answer. Be sure to follow up with your answer as quickly as possible after the meeting.
- Listen well. Make sure you do not do all of the talking. Much of lobbying is listening, looking for indications of the legislator's views, and finding opportunities to provide good information. Give your legislator opportunities to ask questions or state his or her opinion. Members and staff will appreciate the chance to be heard. Also ask questions.
- Stay away from jargon and acronyms. Remember that your legislator deals with dozens, if not hundreds, of issues each week, each with its own "language."
- Thank your legislators if they have been supportive. They get thanked far less than they get criticized. They will appreciate your recognition.
- Be sure to ask for your legislator's support. If your legislator already is very supportive, ask him or her to cosponsor the relevant bill and/or take a leadership role in moving the bill through the process, getting additional cosponsors, or other ways.

FOLLOWING UP AFTER THE MEETING

- Send a note thanking the Member or staff person for meeting with you. Briefly summarize the main points of the meeting.
- Remember to follow up with responses to any questions the Member or staff person asked but you could not answer at the time.
- Do not think of the meeting as an isolated event. Although you may not have a face-to-face meeting again for some time, invite your elected officials to speak at an event or meeting. Think of other ways to maintain the relationship you have initiated.
- Report back. These reports are invaluable in developing legislative strategies and tracking Members' positions on issues important to the pro-immigration community.

Source: The American Immigration Lawyers Association

Lobbying Tips

Before your lobby visit, designate one person to moderate the group discussion. After the moderator states the purpose of the lobby visit, each person should introduce himself or herself.

Know your facts. Review the fact sheets before the meeting with your member of Congress.

Personalize your pitch. Talk about your personal experience – how the issue affects you and your family. Do not try to be a policy expert. Your member of Congress needs to hear your point of view.

Be polite and positive – not confrontational. Present your information in a friendly manner. Do not get into arguments.

After your visit, **write a brief thank-you note** to the congressional office, thanking the member and staff for seeing you. Express your interest in continuing the relationship.

Keep in touch. Make appointments for follow-up visits to members' district offices. Invite them to local union meetings. Attend town hall meetings or other gatherings at which you can speak with them.



Sample Lobby Report Form

Please fill out this form so that we can follow up and keep track of the progress made on the driver's license issue and flag any important pieces of information about legislators. Please fill it out immediately after your meeting with your legislator.

Date: _____

Legislator visited: _____

District: _____

Legislative staff present at meeting: _____

Issue(s) discussed and outcome of discussion(s): _____

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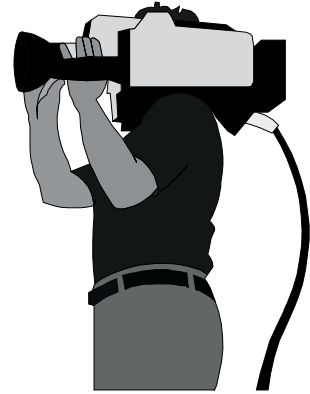
Did the legislator pledge to support expansive driver's license legislation (or a particular bill)? _____

What follow-up actions are needed? _____

V. WORKING WITH THE MEDIA

Getting your message out through the media is another critical component of advocacy. Community leaders start their days listening to the news on the radio, reading the newspapers, and reviewing current events on the Internet. Decision-makers pay attention to the media and public opinion in planning their priorities and contemplating their votes. In fact, they normally respond best to consistent pressure, especially from the media. One of the most effective ways to apply pressure is to have the public absorb messages through the media, be it coverage of events we choose, or in the form of editorials supporting our positions. It is very important to work proactively through the media and to drive the story, not simply respond to it.

This section provides tips for working with the media, and writing press releases, opinion pieces, and letters to the editor.



Tips on Working with the Media

- **Be a consumer of media – follow reporters’ stories.** To understand the news media, become a consumer of the news. Read at least one daily newspaper and watch your local evening news broadcast. This will help you understand what reporters are looking for.
- **Be responsive and prompt.** When a reporter calls you for information, he/she is usually in a hurry. Return the call as quickly as possible. Be helpful and steer reporters to good sources if you don’t have the answer. Reporters develop the habit of calling people who have helped them in the past.
- **Never lie to a reporter.** If they find out, they will never call you again. If you don’t know the answer to a reporter’s question, don’t be afraid to say "I don’t know." If you think you can get the answer quickly or just need to take a minute to prepare your response, ask if you can call back in a few minutes.
- **Develop personal relationships with reporters.** Creating personal relationships is the best way to get your story told.
- **Observe reporter deadlines.** At most newspapers, reporters must file their stories by 5:00 or 6:00 p.m. After 3:00 p.m. they are probably writing their stories and are "on deadline." If a reporter on deadline calls you, try to respond immediately. If you call a reporter, first ask if it is a good time to talk. If the reporter seems hurried and says no, get off the phone immediately and say you’ll call back tomorrow. They will appreciate the respect that you show for their work.
- **Provide good quotations.** Reporters are always looking for good quotes. They should be short, colorful, and pithy. As much as we hate it sometimes, we live in a sound-bite world. As you become a consumer of news, you will gain a sense of the kind of quotes reporters are looking for.
- **Respond immediately to negative press.** Whether the negative press is in the form of a news story or an op-ed, respond immediately with either a letter to the editor or by asking for a meeting with the reporter and his/her editor. The longer a story remains in the public marketplace without being challenged, the more damage it will do as it begins to settle in as fact.
- **Write op-eds and letters to the editor.** Find out your newspaper’s policies regarding submission and use this opportunity. This is your chance to get your views into the newspaper, unfiltered and unedited.

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Source: Immigration Works! It’s Who We Are Campaign Tool Kit. AILA, 2003.

Opinion Essays, Guest Columns, Commentary, and "Op-Eds"

Quick Tips

Most newspapers and magazines publish opinion essays submitted by community leaders, experts, elected officials, and just plain citizens. Known generically as op-eds because they often appear opposite the editorial page, these items offer advocates an opportunity to make their case in their own words, drawing attention to a problem or a success, or an issue of general importance. They may not be the most read part of a newspaper, but those who read them tend to be the most influential opinion leaders in the community. An op-ed also carries with it the implicit endorsement of the paper as being an opinion to which it is important to pay attention.

Op-eds are short, 700-800 words maximum, but each paper that runs them determines its own guidelines for length, submission, topics, etc. Observe what type and style of op-ed is running, from whom, and see if they have published their guidelines either in the paper or on the paper's website.

Messengers: While you may be the best person to write an op-ed because of your knowledge on the issue, you may want to enlist someone prominent or influential in the community to submit it under their name. Ghost writing op-eds for others is very common. Sometimes it helps get the piece published or read because the person is well known. It can also help the power of your message because the person is looked up to, is an expert or academic, or because they have no obvious self-interest in the issue being discussed.

Basic Elements:

Grab their attention – An opening paragraph should get the reader's attention and invite them to read on. Use strong, colorful language, humor, unusual examples, and establish what or who is at stake. Sympathetic anecdotes about the people who would be affected if action is taken, or not taken, are a good way to draw readers in.

State your case – After grabbing the reader's attention, you need to move quickly to the position you are advocating. Be concise and clear (e.g., "Congress should enact the DREAM Act," or "Senator Jones should support the bill."). You want to structure your argument so that readers walk away agreeing with your position.

The first two elements are the most important for getting readers to buy your point of view and for getting editors to publish the piece in the first place. Be creative and spend time getting these two right.

Your evidence – The next several paragraphs provide supporting evidence and examples that develop your argument, but always connect back to the case you are making. Don't overload and make every argument in your



arsenal. Rather, be succinct and give priority to the most important or compelling evidence. If forced to edit down a piece for space, start by trimming the less important evidence.

Provide a summation – Restate your case and underscore how each piece of evidence you have provided leads you to your logical conclusion. This part needs to draw the connection between the reader and the position you are taking. Why is it in the best self-interest of the reader to agree with your position? What's in it for them?

The closer – Again, the closing can be an opportunity to engage the reader, put a human face on the problem, state the consequences of not taking your position, or to end with a clever and memorable "zinger."

About the author– A one-line description of who the author is should stress why they are qualified to advise the rest of us on what position we should take.

Be prepared for the paper to suggest edits for clarity or space. You do not have to accept the paper's suggestions, but the piece may not get published if you refuse. Most papers will give the writer an opportunity to review edits to a piece in advance if they are significant, but not all extend this courtesy.



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Sample Opinion Article

Opinion: License rule won't impair terrorists; Limits aimed at immigrants could boost crime

By Peter McHugh

Philadelphia Inquirer (PA) October 27, 2003

Would you like to be able to catch more terrorists, criminals and bad drivers? Would you like to know who they might be? Without their having domestic driver's licenses, the chances are greater you will not.

After the Sept. 11 attacks, the Pennsylvania General Assembly passed a law prohibiting immigrants from obtaining driver's licenses unless they prove that they are lawful residents of the United States. The law limits the licensing to the period of lawful residency, and those with visas for less than a year are barred unless they are students. This well-intentioned legislation - intended primarily as an antiterrorism measure - is misguided for several reasons.

First, the law will not significantly impair foreign terrorists, never mind domestic ones who have licenses. Terrorists can circumvent the law in numerous ways in which no license is necessary.

Terrorists bent on mass murder don't care about respecting driving laws. They will seek lawful residency through many schemes and get licenses. They will seek to enter the country legally or illegally and live without a license, especially by living in urban areas, staying with others, or posing as visitors or students. They will recruit members who are American citizens and legal residents with licenses. They will seek counterfeit domestic licenses. They will form plots outside the country and execute them after entering the United States and obtaining temporary licenses through visas.

Second, the law will increase criminal behavior and false reliance on licenses as sufficient proof of "safe" status. The endless varying forms of foreign and domestic documents are difficult for government and private employees to validate. A criminal market for breeder documents - official-looking forms, cards and IDs with false data - will grow rapidly to help undocumented immigrants obtain licenses.

The law also aggravates the problem of corruption among government employees, public notaries and others who illegally issue licenses and breeder documents.

Third, undocumented immigrants, who used to be allowed to obtain driver's licenses, are now prohibited by the new law. Though this change may sound sensible and fair, it is unrealistic and harmful.

Millions of undocumented workers not considered a terrorist threat are employed to cheaply perform undesirable agricultural, home, restaurant and outdoor jobs. As long as the demand for such labor exists, undocumented



immigrants will be here to work. As a result, the number of fraudulent licenses will increase, and more flights from accidents and uninsured collisions will arise. Many undocumented immigrants will not respond to criminal and driving violations or will give false identities, depending on the seriousness or repetitiveness of violations.

The change also makes trouble for undocumented immigrants seeking legal status, keeping them underground and afraid to cooperate with government officials. Deported workers will repeatedly return illegally.

Instead, we ought to allow licenses regardless of legal residence - with goals and precautions in mind. This can accomplish many positive things. Most undocumented immigrants are peaceful and, under this system, would most likely provide proper information and seek legal status in the United States. Undocumented immigrants would be given the opportunity to comply with vehicle laws for the public's benefit, and licensing and law enforcement agencies would be more able to track unsafe undocumented immigrant drivers.

As for terrorists, licensing agencies should develop tamper-resistant licenses that are difficult to counterfeit and require identifiers such as scanned photographs, signatures, fingerprints and dental records and DNA samples. Further, the agencies should seek cooperation and share databases with one another. If government agencies cooperate more effectively, criminals and terrorists can be discovered and captured easier. Cross-checking background information among agencies can help identify fraud and corruption and help authorities discover criminals and terrorists more easily.

While respecting reasonable privacy concerns, the government must improve cooperation between licensing and other federal and state agencies. This, together with sound public and private security practices, is the best defense against terrorists.

Peter McHugh is a lawyer who practices in Kennett Square and lives in Exton.



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Sample Editorial

New York Times, November 26, 2003

America's whole immigration policy is currently such a mess that communities are forced to try to regulate an irrational status quo. A perfect example is the current controversy over whether an illegal immigrant should have a driver's license. Obviously on one level it makes no sense for the government to be issuing documents - documents that are frequently used as identification cards - to people who should in theory be deported. But right now there are an estimated seven million people in the country illegally. Our law enforcement officials are not making any serious effort to find them, and our political leaders are not making any serious effort to come up with a system that would expand their ability to work here legally. So it is no wonder that many experts support the driver's license idea as a simple matter of highway safety.

Right now, many illegal immigrants drive cars with neither licenses nor car insurance. Everyone would be better off if they were encouraged to acquire the driving skills necessary to get the licenses, and the protection of other motorists that comes with insurance. The concept of expanding driving licenses to illegal immigrants clearly has the broad bipartisan support, including an array of law enforcement brass including Police Chief William Bratton in Los Angeles, San Francisco's sheriff and many of California's firefighters. The Los Angeles Chamber of Commerce backs a licensing law, as do most of the state's insurance companies. Their argument is that some control over who drives is better than none.

California and its governor, Arnold Schwarzenegger, stand at the unsteady center of this difficult issue. Mr. Schwarzenegger's predecessor, Gray Davis, had been vehemently opposed to licensing illegal immigrants. But under pressure of the recall movement, he switched and signed a fairly lenient bill that would have allowed applicants to use a tax identification number to get a license. Rather than appealing to Latino voters, that bit of pandering served only to infuriate almost everybody. Now, responding to a request from Governor Schwarzenegger, the California Legislature is poised to repeal the Davis law before conservative Republicans ramp up a statewide campaign to recall the law just as they recalled Mr. Davis.

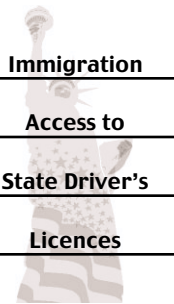
Opponents of the licensing law may have been right to worry that it would make it too easy for people with no legal ties to this country to get identification that is used, among other things, as a way to wave passengers onto airplanes. Mr. Schwarzenegger has won support from the Democratic Legislature by indicating he would accept a new version with more background checks and other safeguards.

Once the Legislature has repealed the Davis law, Mr. Schwarzenegger needs to produce and sell a reasonable compromise plan to start licensing the



illegal immigrants already driving in his state. Then he should join with other governors and legislators from border and coastal states and demand that Congress get serious about rationalizing the entire immigration issue.

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Quick Tips on Writing and Disseminating a Press Release

Style: Like all other communications to the press, press releases should be catchy and concise. Do not attempt to make all of your arguments in one press release. Instead, stick to your strongest messages and most important points.

Length: Try to keep it short—one page is best. If you do use more than one page, be sure to include your organization's name and the contact person's information on each page. At the bottom of the first page type "(more)" so that the reader knows there is additional information. Multi-page faxes to newsrooms sometimes get separated, which is yet another incentive to keep the release to one page if possible.

Controlling the Message/Messengers: The purpose of the press release is to communicate your organization's perspective or position on the issue, and in writing the press release you have complete control over how you word your argument. You should also be prepared to field follow-up calls from reporters, and have a plan for referring reporters to other sources. People who personify or can add a "human face" to the issue you are pushing for are ideal referrals. For example, in calling for enactment of the DREAM Act or Student Adjustment Act, good messengers would be undocumented immigrant students who have excelled in high school but can't afford to pay international tuition rates and attend a public university. Other good messengers would be high school teachers and guidance counselors, university presidents, and Congressional sponsors of the legislation. Business leaders who have a stake in a well-educated workforce and religious leaders who carry an air of moral authority can be good messengers, as well. These are all people to whom you can and should refer reporters' questions, but it is important to vet these sources to see who would be most comfortable talking to the media and who can make the most compelling arguments in favor of your position.

Organization:

Title – Be as catchy and enticing as possible; think of this as the headline you want to see in tomorrow's newspaper.

First paragraph – This is your "lead" paragraph. It should include the most pertinent information and what you are calling for.

Body – Allow yourself one to two short paragraphs to briefly explain the issue.

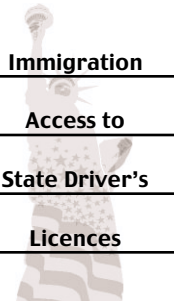
Close – Give your organization's position in the form of a quotation from your spokesperson. Try to use a couple of quotes from your organization's director, and make sure they say exactly what you want to read in tomorrow's newspaper. Remember, this is the only time you will have complete and careful control over exactly what is said by your organization



on a particular topic. Many reporters will pull these quotes right from the release and use them in stories, so take your time in crafting them.

Dissemination: Fax and/or email the release to your press list (mailing takes too long). Do not send the release too early, as reporters may lose it. Send the release within one week of when the topic will be relevant news. If you are particularly interested in certain reporters or media outlets carrying your story, call to follow-up on the release. Reporters get so many press releases, it's important to make yours stand out. For broad and immediate distribution, you can make arrangements with a newswire service (like U.S. Newswire at 1.800.544.8995 or P.R. Newswire at 202.547.5155) for them to disseminate your release.

Remember, even if reporters do not use your press release, it's a good way to put your organization on the map so that reporters will call you when they do write about the issue.



Sample Press Release

For Immediate Release:
December 4, 2003

Contact:
Rini Chakraborty, ACLU-SC -
213.977.5251

COMMUNITIES ACROSS THE STATE EXPRESS PROFOUND DISAPPOINTMENT OVER GOVERNOR SCHWARZENEGGER'S REVERSAL OF SB 60

Driver's License Repeal Criticized for Endangering Lives, Targeting Immigrants

Sacramento – On Wednesday, Governor Schwarzenegger repealed SB 60 (Cedillo), which would have allowed all California motorists, regardless of their immigration status, to obtain a state driver's license if they passed the driving and written tests, provided proof of identity and state residence, submitted a thumbprint and photograph, and complied with all other licensing requirements. Law enforcement, immigrant rights and civil rights community, unions, religious leaders, and children's advocates responded to the Governor's latest action:

Law Enforcement

"We're greatly disappointed by the news. California is not any safer by having unlicensed and uninsured drivers on the road. The repeal of SB 60 will not stave off immigration, nor will it keep people from owning or driving a car. Instead, it will prevent immigrants from being tested and insured and interfere with law enforcement's ability to do our jobs more easily with drivers' names, addresses, and fingerprints on file."

Art Placencia, President of the Latin American Law
Enforcement Association (LaLey)

"DMV records indicate that approximately 5% of the motoring public in the state of California are unlicensed. SB 60 was almost certainly destined to reduce that number. The repeal of SB 60 is unfortunate and Californians are no safer for it."

Chief Ray Samuels, Newark Police Department

Immigrant & Civil Rights Leaders

"The repeal of SB 60 is a miscarriage of justice and fairness for all Californians. It's unfortunate that Governor Schwarzenegger has chosen to play politics with people's lives – even if it means endangering the safety of California motorists. It's tragic that politicians used this bill as a divisive wedge issue for political gain, and the driver's license law got caught up in the fervor to recall Davis. Immigrant families continue to live, work and pay taxes in California. SB 60 would have helped to ensure that they can drive their children to school, to the doctor and to get to work safely. The problem of uninsured, unlicensed drivers will not solve itself."

Angelica Salas, Executive Director of the Coalition for Humane Immigrant
Rights of Los Angeles (CHIRLA)



"The driver's license repeal has nothing to do with protecting 'national security.' Terrorists are no more representative of hard-working, tax-paying immigrants than Timothy McVeigh is of U.S. citizens. Immigrants come to this country full of hope and aspiration and for the same reason our new governor came – to seek the American Dream, not to destroy it."

Ramona Ripston, Executive Director of the ACLU of Southern California

"The reversal of the driver's license law represents another sad chapter for California. I am deeply disappointed that we have not come to terms with our history and present-day reality as a nation of immigrants. As Californians, we have so much at stake right now, with multi-billion dollar deficits and potentially severe budget cuts in health and other services for working poor families. We need to put aside divisive politics that vilify immigrant communities and embrace policies that benefit all of us. Our future is inextricably tied to one another. The only way for this great state to move forward is together."

Stewart Kwoh, Executive Director of the Asian Pacific American Legal Center (APALC)

Labor Unions

"By repealing SB 60, Governor Schwarzenegger is sending the wrong message to the hundreds of thousands of Californians who toil in our fields, our factories, and hotels and who serve as the invisible engine of this state's economy. We trust and depend on these immigrants to put food on our tables, clean our homes and office buildings, sew our clothes, even care for our children and elders. Yet, inexplicably, we do not trust them with the right to drive."

Maria Elena Durazo, President of Hotel Employees & Restaurant Employees Union (HERE) Local 11

Children's Rights Advocates

"Working parents need to be able to get their children to school safely and to their jobs on time."

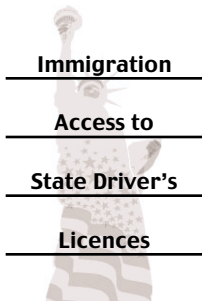
Karina Moreno, Children's Defense Fund of California

Faith-Based Community

"We call on our new Governor and the members of the Legislature to work together for the common good of all Californians, and to craft appropriate legislation which both assures that proper security requirements are in place for all licensed drivers, and assists our immigrant workers and families in contributing to the prosperity of all in our State. This is a providential moment for our State to acknowledge the enormous contributions being made by our immigrant peoples, while helping to create a spirit of unity and harmony among all Californians."

Cardinal Roger M. Mahony, Archbishop of Los Angeles

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Letters to the Editor

Quick Tips

Community leaders, politicians, business leaders, educators and the media pay a great deal of attention to letters to the editor and other opinion pieces in the newspaper. A good letter delivers your message to these people with the implicit endorsement of the newspaper that publishes it.

- A) Write it and get it to the paper ASAP, on the day an article appears which invites a response, if possible. Utilize e-mail and faxes to expedite delivery.
- B) Make a brief, clear point. Avoid balanced, pro-con essays that give more information than the format requires.
- C) You control the message, so say what you most want to say, succinctly.
- D) Use sarcasm, catchy phrases, wit, fury, enthusiasm, colorful language. You want to give the editors a well-written letter that readers will enjoy and remember.
- E) Keep it short. The maximum is 200 words, but the shorter it is, the more likely it will fit into the paper quickly. Be prepared to trim below 200 words if the editors request it.
- F) Letters to the editor policies and guidelines for length, language and submission are different from paper to paper. Often these are spelled out by the paper or available on their web page. Notice what gets published and craft your letter accordingly.
- G) Always mention the title, author and date of the article that sparked your letter.
- H) Identify yourself with a one-line description (e.g., "The writer is the executive director of the Portland Immigration Coalition.").
- I) Include all of your contact information including name, mailing address, e-mail address, phone and fax.
- J) The newspaper may ask to edit your letter, but it should not be published without your prior approval if significant edits are made. You don't have to accept their proposed changes, but the price of refusing their edits may be that you are not published.



Sample Letter to the Editor

From *U.S. News and World Report*

Dear Mr. Duffy,

In "Citizenship on the Cheap" [Sept. 22], John Leo claims that "many" noncitizen immigrants who possess driver's licenses vote in U.S. elections, but he points to no concrete evidence to support this inflammatory claim.

I arrived in the U.S. as a refugee. It took me nine long years to earn my U.S. citizenship; for many immigrants, the road to eligibility for full civic participation is much longer. During all those nine years, I had a driver's license but knew I couldn't vote until my U.S. citizenship was granted. It took me a lot of effort and patience to earn my U.S. citizenship, which I appreciate more than many I know who acquired it by birth. But my efforts seem minor compared to those that other immigrants, both documented and undocumented, are making on behalf of their adopted homeland. Currently, 37,401 noncitizens serve in the U.S. military and at least 3,000 have served in the war against Iraq (The Seattle Times, Sept. 12, 2003). Jose Gutierrez grew up as an orphan in Guatemala, entered the U.S. without papers, and died as a U.S. Marine Lance Corporal in combat in Iraq (his citizenship was granted posthumously). That's not citizenship on the cheap.

By slipping this unfounded rumor (branding noncitizen immigrants as cheats) into his essay, Leo is engaging in journalism on the cheap and, what is worse, demagoguery. He has done a profound disservice to your readers and to the broader body politic.

Thank you for your attention and your time.

Sincerely yours,

Svjetlana Tepavcevic

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VI. LEGAL COMPONENTS OF IMMIGRANT DRIVERS' LICENSE CAMPAIGNS

A legal strategy can be very effective, if used in the context of an overall political campaign that also emphasizes public safety. Several compelling legal arguments can be used to back an immigrant driver's license campaign. These arguments have their roots in U.S. civil rights and constitutional law, which states are required to respect:



- **Federalism**—State and local authorities are not supposed to be enforcing federal civil immigration law, because under the U.S. constitutional system of federalism, this is the exclusive jurisdiction of the federal government.
- **Effectiveness of State Policy-Making**—State motor vehicle departments should concentrate on public safety. Restricting immigrant licenses undermines public safety and does not contribute to national security. Considering that immigrant driver's licenses increase public safety and can add significant revenue to state budgets, under a constitutional analysis, there is not even a rational basis for restricting immigrants' access to driver's licenses.
- **Foreseeable Racial Profiling**—When unauthorized, untrained state and local officials start asking U.S. residents about immigration status, racial profiling (of citizens, legal residents and immigrants) is likely. Such racial profiling is prohibited as unconstitutional discrimination. Requiring motor vehicle officials to inquire about immigration status and encouraging other state and local officials to inquire about immigration status will lead to an increased use of racial profiling.
- **Plyler vs. Doe**—In 1982, in the landmark Plyler vs. Doe case, the U.S. Supreme Court clarified that undocumented immigrants may not be denied state services, and ruled that undocumented children are entitled to a public education. Even since the 1996 federal immigration law reforms denying immigrants federal services, the Plyler rule has remained in force at the state and local level, and it has even survived attack under California's anti-immigrant Proposition 187. Under Plyler, undocumented immigrants are protected from discrimination under the Equal Protection clause. At the state level, any differential treatment—of citizens, legal residents and undocumented immigrants—is subject to strict scrutiny. Since the federal government is authorized to enforce immigration laws, its actions are only subject to a constitutional test of reasonableness. But at the state level, any differential treatment is subject to strict scrutiny. Therefore, various forms of states' restricting immigrants' access to driver's licenses may be unconstitutional.

State Attorneys General Opinions & Other Legal Options—Based on this body of law, some State Attorneys General are beginning to issue legal



opinions regarding immigrant driver's licenses. The attached 1995 State of Michigan Attorney General Opinion could be a very useful model for other states. In 2003, the Maryland Attorney General also issued an opinion stating that the DMV should not be asking about immigration status. Once the State Attorney General clarifies that restricting immigrants' licenses is unconstitutional, then it becomes easier to convince the state legislature to enact a law permitting access to driver's licenses.

Some cases involving racial profiling of Latino applicants by state DMV officials have been settled based on the above body of law. Other minority and immigrant communities have also been negatively affected by anti-immigrant restrictions placed on state driver's licenses since 1996. Incidents of citizens and legal permanent residents being demanded to prove immigration status or being denied licenses can help demonstrate why state DMVs should refrain from enforcing immigration laws, and instead concentrate on improving public safety. Future lawsuits to enforce immigrants' rights may be helpful to state driver's license campaigns, if they are part of an overall strategy involving political and public safety campaigns.

SSN Requirements – A requirement in section 466(a)(13) of the Social Security Act, 42 U.S.C. §666(a)(13), may also have misled some states to believe that they must require a social security number for licenses. This provision requires states to establish procedures for recording social security numbers on applications for certain licenses in order to facilitate child support enforcement. However, in a memo to State IV-D Directors and Regional Program Managers on July 14, 1999, the Commissioner of the Office of Child Support Enforcement in the U.S. Department of Health and Human Services states that this requirement only requires an individual to provide a social security number if s/he has one. The federal memo expressly provides that "[s]ection 466(a)(13) of the Act does not require that an individual have a social security number as a condition of receiving a license, etc." The memo continues to suggest that an affidavit could be used, but by no means required by a state. This interpretation is consistent with earlier policies of other federal agencies, such as the U.S. Department of Housing and Urban Development, requiring social security numbers only from those who actually have them. For more information, see HUD Circular No. H-90-60 (8/24/90), permitting individuals not assigned SSNs to execute certifications to that effect.



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Source: MALDEF, 2003.

Model Attorney General Opinion

The following opinion is presented online for informational use only and does not replace the official version. (Michigan Department of Attorney General Web Site - www.ag.state.mi.us)

STATE OF MICHIGAN
FRANK J. KELLEY, ATTORNEY GENERAL

Opinion No. 6883

December 14, 1995

STATE, DEPARTMENT OF:

Ability of an illegal alien to obtain a Michigan driver's license

The Department of State may not refuse a driver's license to an otherwise qualified person solely because that person is an illegal alien under the Immigration and Nationality Act of 1952.

Honorable Candice Miller

Secretary of State

Department of State

Lansing, Michigan

Your predecessor in office has asked if the Department of State may refuse a driver's license to an otherwise qualified person solely because that person is an illegal alien under the Immigration and Nationality Act of 1952, 8 USC 1101 et seq.

The requirements for obtaining a Michigan driver's license are contained in the Michigan Vehicle Code (the Code), 1949 PA 300, MCL 257.1 et seq; MSA 9.1801 et seq. In 1968 PA 106, the Legislature added section 51a to the Code, defining the word "resident" for purposes of the Code as follows:

"Resident" means every person who resides in a settled or permanent home or domicile with the intention of remaining in this state. A person who obtains employment in this state is presumed to have the intention of remaining in this state. This definition shall apply to the provisions of this act only.

Section 303(m) of the Code prohibits the Secretary of State from issuing a driver's license to a "nonresident." (1) This prohibition was added to the Code by 1988 PA 346, as part of a package of bills dealing with truck safety to bring Michigan in compliance with the then Commercial Motor Vehicle Safety Act of 1986, 49 USC 2701 et seq. House Legislative Analysis, SB 700, November 4, 1988. A review of the legislative history of SB 700, which



became 1988 PA 346, including the analyses of the various substitutes considered in both Houses, reveals no indication that this prohibition was directed at illegal aliens.

In the Code the Legislature has not required that a person be a lawful resident of the United States under the Immigration and Nationality Act of 1952 to receive a driver's license. Nor has the Legislature enacted any prohibition that a driver's license shall not be issued to an illegal alien.

There is nothing in the federal Immigration and Nationality Act of 1952 that precludes an illegal alien from becoming a resident of a state. Next, we turn to the controlling case law.

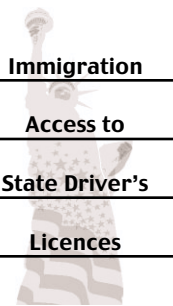
In *Plyler v Doe*, 457 US 202, 230; 102 S Ct 2382; 72 L Ed 2d 786 (1982), the United States Supreme Court held that the denial of free public education to illegal alien children violated the Equal Protection Clause of the Fourteenth Amendment. In reaching that result, the Court enunciated three important legal principles:

1. Under the United States Constitution, the power to classify aliens resides with the Congress rather than the states. 457 US, at p 225.
2. Illegal aliens are persons protected against arbitrary treatment under state laws by the Equal Protection Clause of the Fourteenth Amendment. 457 US, at p 210.
3. Illegal entry into the United States does not bar a person from complying with state residency standards. 457 US, at p 227, n 22.

In *Cabral v State Bd of Control*, 112 Cal App 3d 1012, 1015-1017; 169 Cal Rptr 604 (1980), the court held that an illegal alien was a "resident of California" for the purpose of a crime victim compensation statute. The court rejected an administrative regulation that limited state residency under the California statute to persons that were lawful residents of the United States, because the regulation imposed a requirement that was not in the statute.

The Arizona Supreme Court followed *Plyler v Doe*, supra, in requiring a county to reimburse a private hospital for medical services rendered to an illegal alien under an Arizona statute limiting reimbursement to indigent county residents. The court held that illegal aliens could acquire residence in the county. *St. Joseph's Hospital v Maricopa County*, 142 Ariz 94; 688 P2d 986, 992 (1984).

In summary, neither federal nor Michigan statutes preclude an illegal alien from establishing residence in Michigan. The courts have consistently ruled that illegal aliens, who are persons protected from arbitrary state action by the Equal Protection Clause of the Fourteenth Amendment, may meet state residency standards.



It is my opinion, therefore, that the Department of State may not refuse a driver's license to an otherwise qualified person solely because that person is an illegal alien under the Immigration and Nationality Act of 1952.

Frank J. Kelley

Attorney General

⁽¹⁾Subsection (m) of section 303 was originally enacted in 1988 PA 346 as subsection (1) and subsequently became subsection (m) as amended by 1994 PA 449.



VII. ADDITIONAL RESOURCES FOR ADVOCATES WORKING ON DRIVER'S LICENSE CAMPAIGNS

The following organizations can provide additional information and support for your driver's license campaign, and can put you in touch with other advocates from around the country.



National organizations working on driver's license issues

National Immigration Law Center (NILC)

1101 14th St., NW, Suite 410
Washington, DC 20005
(202) 216-0261
www.nilc.org
Contacts: Tyler Moran, Joan Friedland

American Immigration Lawyers Association (AILA)

918 F St, NW
Washington, DC 20004-1400
(202) 216-2400
www.aila.org
Contact: John Estrella

Mexican American Legal Defense and Educational Fund (MALDEF)

1717 K Street, NW, Suite 311
Washington, DC 20036
(202) 293-2828
www.maldef.org
Contact: Katherine Culliton

National Council of La Raza (NCLR)

1111 19th St., NW, Suite 1000
Washington, DC 20036
(202) 785-1670
www.nclr.org
Contacts: Michele Waslin, Clarissa Martinez de Castro

National Employment Law Project (NELP)

55 John Street, 7th Floor
New York, NY 10038
(212) 285-3025
www.nelp.org
Contact: Rebecca Smith

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Additional websites

American Immigration Lawyers Association:

- www.aila.org
- Search for "driver's license" to access issue briefs

National Conference of State Legislatures

- www.ncsl.org
- Search for "driver's license" for articles on state bills and laws

National Council of La Raza

- www.nclr.org/policy/briefs/IB6Drivers%20License.pdf
- or www.nclr.org and click on "Issue Brief" under "Publications" and go to Issue Brief Number 6 for information on driver's licenses.

National Employment Law Project

- www.nelp.org
- <http://www.nelp.org/docUploads/lphrch3112603%2Epdf>
- Click on "immigrant worker project," then "access to benefits," then "identification" for articles on driver's license proposals and information on the Individual Tax Identification Number.

National Immigration Law Center

- www.nilc.org
- Click on "information on driver's license and immigrants" for articles on state campaigns, a chart of 2002 and 2003 state driver's license bills, and a chart of state driver's license laws.

Tennessee Immigrant and Refugee Rights Coalition

- <http://www.tndriverslicense.org/>
- Great information on the state campaign that resulted in allowing those without a Social Security Number to obtain a driver's license.

Driver's License List server

The purpose of the list server is to facilitate communication among advocates promoting immigrant access to state driver's licenses and IDs. Over 180 people from around the country are currently subscribed. To join the list server, send an email to immigrant_license_subscribe@yahoo.com with your contact information.



Model Legislation

AN ACT

RELATING TO DRIVER'S LICENSES; PROVIDING THAT AN INDIVIDUAL TAX IDENTIFICATION NUMBER MAY BE USED FOR APPLICATIONS FOR DRIVER'S LICENSES.

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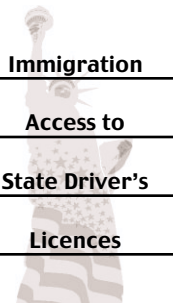
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 66-5-9 NMSA 1978 (being Laws 1978, Chapter 35, Section 231, as amended) is amended to read:

"66-5-9. APPLICATION FOR LICENSE, TEMPORARY LICENSE, PROVISIONAL LICENSE OR INSTRUCTION PERMIT.--

A. An application for an instruction permit, provisional license or driver's license shall be made upon a form furnished by the department. An application shall be accompanied by the proper fee. For permits, provisional licenses or driver's licenses other than those issued pursuant to the New Mexico Commercial Driver's License Act, submission of a complete application with payment of the fee entitles the applicant to not more than three attempts to pass the examination within a period of six months from the date of application.

B. An application shall contain the full name, social security number or individual tax identification number, date of birth, sex and New Mexico residence address of the applicant and briefly describe the applicant and indicate whether the applicant has previously been licensed as a driver and, if so, when and by what state or country and whether any such license has ever been suspended or revoked or whether an application has ever been refused and, if so, the date of and reason for the suspension, revocation or refusal. For foreign nationals applying for driver's



licenses the secretary shall accept the individual taxpayer identification number as a substitute for a social security number regardless of immigration status. The secretary is authorized to establish by regulation other documents that may be accepted as a substitute for a social security number or an individual tax identification number.

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C. An applicant shall indicate whether he has been convicted of driving while under the influence of intoxicating liquor or drugs in this state or in any other jurisdiction. Failure to disclose any such conviction prevents the issuance of a driver's license, provisional license, temporary license or instruction permit for a period of one year if the failure to disclose is discovered by the department prior to issuance. If the nondisclosure is discovered by the department subsequent to issuance, the department shall revoke the driver's license, provisional license, temporary license or instruction permit for a period of one year. Intentional and willful failure to disclose, as required in this subsection, is a misdemeanor.

D. An applicant less than eighteen years of age who is making an application to be granted his first New Mexico driver's license shall submit evidence that he has:

- (1) successfully completed a driver education course that included a DWI prevention and education program approved by the bureau or offered by a public school. The bureau may accept verification of driver education course completion from another state if the driver education course substantially meets the requirements of the bureau for a course offered in New Mexico;
- (2) had a provisional license for the twelve-month period immediately preceding the date of the application for the driver's license;
- (3) complied with restrictions on that license;



(4) not been convicted of a traffic violation committed during the ninety days prior to applying for a driver's license;

(5) not been cited for a traffic violation that is pending at the time of his application; and

(6) not been adjudicated for an offense involving the use of alcohol or drugs during the twelve-month period immediately preceding the date of the application for the driver's license and that there are no pending adjudications alleging an offense involving the use of alcohol or drugs at the time of his application.

E. An applicant eighteen years of age and over, but less than twenty-five years of age, who is making an application to be granted his first New Mexico driver's license shall submit evidence with his application that he has successfully completed a bureau-approved DWI prevention and education program.

F. An applicant twenty-five years of age and over who has been convicted of driving under the influence of intoxicating liquor or drugs, and who is making an application to be granted his first New Mexico driver's license, shall submit evidence with his application that he has successfully completed a bureau-approved DWI prevention and education program.

G. Whenever application is received from a person previously licensed in another jurisdiction, the department may request a copy of the driver's record from the other jurisdiction. When received, the driver's record may become a part of the driver's record in this state with the same effect as though entered on the driver's record in this state in the original instance.

H. Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

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I. This section does not apply to driver's licenses issued pursuant to the New Mexico Commercial Driver's License Act."

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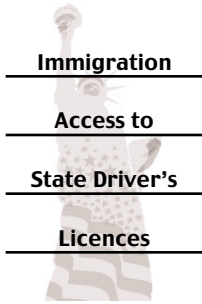
Driver's Licence Fact Sheet

On June 20th, the state of New Mexico began issuing drivers' licenses to immigrants regardless of immigration status. The following information will clarify what documents are needed and additional requirements to obtain a driver's license.

REQUIRED DOCUMENTS:

Applicants for a New Mexico driver's license must provide the following:

1. One (1) identification number
2. One (1) proof of identity
3. Two (2) proofs of residency showing a New Mexico address



ACCEPTABLE IDENTIFICATION NUMBERS (1):	ACCEPTABLE DOCUMENTS TO PROVE IDENTITY (1):	ACCEPTABLE DOCUMENTS TO PROVE RESIDENCY IN NEW MEXICO (2):
<ol style="list-style-type: none"> 1. Government-issued document containing applicant's social security number 2. Individual Tax Identification Number Card (ITIN)—or applicant's letter from IRS issuing the ITIN, or tax forms using the applicant's ITIN 3. Valid passport issued by country of citizenship 4. Matrícula Consular issued by the Mexican Consulate in Albuquerque 5. Valid documentation issued by the INS such as an I-551 "resident alien card," I-151 "alien registration receipt" card, I-688 "temporary resident" card, or an I-797 "notice of action." 	<ol style="list-style-type: none"> 1. Original birth certificate (with notarized English translation) 2. Certified copy of a birth certificate (with notarized English translation) 3. Valid passport issued by country of citizenship 4. Indian census card 5. Matrícula Consular issued by the Mexican Consulate in Albuquerque 6. Current driver's license from another state or country 	<ol style="list-style-type: none"> 1. Rental agreement or purchase agreement 2. Any original government-issued document 3. Utility bill (water, gas, electric, waste, telephone, etc.) 4. Insurance bill 5. Bank statement 6. Check book 7. Employment pay stub 8. Local property tax statement 9. Proof of a minor child enrolled in a public or private school 10. Voter registration card 11. Original documents from a New Mexico community service organization 12. Original documents from a city, county, state or federal government health or social service organization attesting to the fact that the applicant is a New Mexico resident 13. Matrícula Consular issued by the Mexican Consulate in Albuquerque

ADDITIONAL REQUIREMENTS:

Exams and courses--You have three chances within a six-month period to pass the written and road exam. If you fail, you can re-take the tests after eight days. After passing the written exam, you will have to make an appointment to take the road test. **You must take the road test in a vehicle that is registered and insured.** There is no cost for taking these exams.

1. **If you do not have a valid driver's license from another state or country, or if your license has been expired for more than five years:**
You must take the written, road, and vision exam.
2. **If you have a have a license from another U.S. state (not expired for more than one year):**
You do not have to take a written or road test, only a vision exam. If your license expired between one year and five years ago, you will have to take the written test and vision exam, but not a road test.
3. **If you have a foreign driver's license (not expired for more than five years):**
You must take the written and vision exam, but not the road test.
4. **If you are between the ages of 18 and 24, or you have a DWI conviction on your driving record:**
You will be required to take the Traffic Safety Bureau "None for the Road" DWI awareness class, which is a self-study course available by mail. You may pick up a flyer/application on how to register for this course directly from any local MVD field office.
5. If you are interested in taking classes to learn how to drive, look for a driving school in your local phone book.

IMPORTANT ADDITIONAL INFORMATION:

1. **You should not present false documents to MVD because you could be arrested.**
2. You should not discuss your immigration status with workers from MVD.
3. If you are denied a license or are mistreated at MVD, you should fill out a Customer Service Form and fax it to Kathleen Baca at 505-827-0331 at the Office of the Secretary of Taxation and Revenue.
4. To obtain a driver's license for four years, you will have to pay \$16. For eight years, you will have to pay \$32.
5. If you have a New Mexico license that has "FOREIGN NATIONAL" printed on the face of the license, you can exchange it, free of charge, at any MVD office

